

**KENTUCKY PERSONNEL BOARD
MINUTES OF JANUARY 11, 2013**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on January 11, 2013, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Ramona Herndon-Griffin, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD DECEMBER 14, 2012**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Hutcheson moved to approve the minutes, as submitted. Ms. Herndon-Griffin seconded, and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek advised that Dr. Stevens' term on the Board has ended and thanked him for his work. However, Mr. Sipek stated that Dr. Stevens agreed to continue to serve on the Board until the Governor appoints a new member.

Mr. Sipek discussed the Board's budget stating the office is half-way through the fiscal year and that funds are depleting rapidly. As the Board goes forward, Mr. Sipek stated fewer appeals will be heard and they will be prioritized, beginning with dismissals, in order to make it to the end of the fiscal year without a deficit. At this time, there are no immediate plans to replace the Legal Secretary position, support staff will be working extra hard during the transition.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. **PERSONNEL CABINET'S REPORT**

The Hon. Whitney Meagher came forward to present the Personnel Cabinet's report.

Ms. Meagher advised that W-2 forms were being prepared and is the busiest time for Payroll.

A memo was sent to all state employees on January 8, 2013, regarding tax withholdings. Specifically, the Frankfort occupational tax has increased from 1.75 percent to 1.95 percent, which means that anyone working in Frankfort will be affected.

Ms. Meagher stated that a memorandum was issued in December 2012 that mandatory direct deposit of paychecks will affect all new employees and re-hires; i.e. Payroll will not provide paper stubs, which will add savings to state budgets.

At the conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for the first oral argument.

5. **ORAL ARGUMENTS**

A. Marie Knear v. Cabinet for Health and Family Services

Present for oral argument were the Appellant, Marie Knear; counsel for Appellant, the Hon. Ken McCardwell; and counsel for Appellee, the Hon. Jennifer Wolsing. After presenting oral arguments, the parties answered questions from the Board.

B. Kenneth Washington v. Education and Workforce Development Cabinet --

Present for oral argument were the Appellant, Kenneth Washington, and counsel for Appellee, the Hon. Lisa Lang. After presenting oral arguments, the parties answered questions from the Board.

6. **INVESTIGATIONS**

Update on Department of Agriculture Investigation

Mr. Sipek advised that he anticipates the pace of the investigation will be picking up. This investigation is combined from the Auditor's Report and the Anonymous request for investigation. The office has gathered documents regarding the promotion in the anonymous complaint, the ACE award issue and documents from other agencies.

Mr. Sipek stated that he will begin interviewing within the next month on the Anonymous request and ACE awards and begin gathering documents from the Auditor's report. Mr. Sipek recommended to the Board that this investigation be a regular agenda item, so that the Board members can get regular updates.

7. **CLOSED SESSION**

Mr. Hutcheson moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Judge Chandler seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (11:00 a.m.)

Mr. Hutcheson moved to return to open session. Mr. Blevins seconded and the motion carried 7-0. (11:51 a.m.)

8. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. Marie Knear v. Cabinet for Health and Family Services

Mr. Hutcheson moved to note Appellant's exceptions, Appellee's response, and oral arguments and to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

B. Kenneth Washington v. Education and Workforce Development Cabinet

Mr. Gillis moved to note Appellant's exceptions, Appellee's response, and oral arguments and to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

C. Michele Belcher v. Education and Workforce Development Cabinet **(Deferred from December)**

Judge Chandler moved to note Appellant's exceptions, Appellee's response, and oral arguments and to remand this matter to the Hearing Officer for further proof as to whether or not the Appellant has performed duties more consistent with another classification as a result of new responsibilities after August 1, 2010. Dr. Stevens seconded and the motion carried 7-0.

D. Shirley Crenshaw v. Cabinet for Health and Family Services

Mr. Gillis moved to note Appellant's exceptions and to accept the recommended order dismissing the appeal. Ms. Herndon-Griffin seconded and the motion carried 7-0.

E. Katy Renfro v. Transportation Cabinet and Randi Vint

Mr. Gillis moved to note Appellant's exceptions and Appellee's response, and to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

F. Jeffrey Brady v. Justice and Public Safety Cabinet (Corrections)
Moved to February

G. Daymon Duvall v. Justice and Public Safety Cabinet (Corrections)

Dr. Stevens moved to accept the recommended order dismissing the appeal. Mr. Blevins seconded and the motion carried 7-0.

H. Bryan J. Mitchell v. Transportation Cabinet

Mr. Blevins moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 7-0.

I. Justin Weathers v. Cabinet for Health and Family Services

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Herndon-Griffin seconded and the motion carried 7-0.

J. Paul Weeks v. Justice and Public Safety Cabinet (Corrections)

Judge Chandler moved to accept the recommended order dismissing the appeal. Mr. Blevins seconded and the motion carried 7-0.

Show Cause Orders - Appeal Dismissed - Response Filed

The following case had a show cause order entered by the hearing officer recommending that the appeal be dismissed for failure to timely prosecute unless a statement was filed by the Appellant stating sufficient cause to excuse their failure to appear at the scheduled hearing. Appellant filed a response to the show cause order.

K. Joanna Wood v. Justice and Public Safety Cabinet (DJJ)

Mr. Blevins having noted Appellant's response and Appellee's reply moved to reject the recommended order and to remand this matter back for a hearing. Ms. Herndon-Griffin seconded and the motion carried 7-0.

9. **WITHDRAWALS**

Mr. Hutcheson moved to consider the following withdrawals of appeals *en bloc* and to accept the withdrawals and dismiss the appeals. Ms. Herndon-Griffin seconded and the motion carried 7-0.

- A. Soraya Matthews v. Education and Workforce Development Cabinet
- B. Christopher Dean v. Justice and Public Safety Cabinet (Corrections)

10. **SETTLEMENTS**

Judge Chandler moved to accept the following settlements *en bloc*, as submitted by the parties, and to sustain the appeals to the extent set forth in the settlement. Dr. Stevens seconded and the motion carried 7-0.

- A. Beanka Gay v. Transportation Cabinet (2012-062)
- B. Brenda Wood v. Cabinet for Health and Family Services
- C. Heather Walldridge v. Cabinet for Health and Family Services

11. **OTHER**

Mr. Blevins asked if the hearing officers were contractual or by the hour. Mr. Sipek stated that Hearing Officers have two-year contracts and are paid \$75 an hour. Mr. Crocker stated that contracts are up for bid in 2014. Mr. Sipek stated that Hearing Officers are provided with KRS Chapter 13B training once a year.

Dr. Stevens stated that he enjoyed serving on the Board, and will continue to do so until the Governor appoints another member.

Chairman Sapp asked if there were any other matters to be discussed. There being no further business, Mr. Gillis moved to adjourn. Ms. Herndon-Griffin seconded and the motion carried 7-0. (12:02 p.m.)

Wayne D. Sapp, Chairman

Larry B. Gillis, Vice Chairman

David B. Stevens, Member

David F. Hutcheson, Jr., Member

Tommy W. Chandler, Member

Donald W. Blevins, Member

Ramona Herndon-Griffin, Member